



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 7, 1998

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR98-0058

Dear Mr. Weir:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 111672.

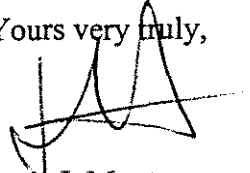
The City of San Antonio (the "city") received a request for a copy of the proposed city ordinance that regulates non-consent towing of vehicles from private property. You advise this office that the "city staff has prepared a working draft that is a dynamic document that reflects the recommendations of the city staff that will be presented to the city council perhaps as early as November of this year." You also state that the city does not wish to release the proposed ordinance until a final draft, ready for presentation at public hearings is completed. You have submitted that document to us for review, and claim that it is excepted from public disclosure by section 552.106 of the Government Code.

Section 552.106 excepts "[a] draft or working paper involved in the preparation of proposed legislation." This section protects the internal deliberative processes of a governmental body in enacting legislation. Open Records Decision No. 248 (1980). It does not, however, except basically factual information. Open Records Decision No. 344 (1982). Although section 552.106 is designed to encourage frank discussion on policy matters between subordinates or advisors of a legislative body, it is specifically applicable only to the "preparation of proposed legislation." Open Records Decision No. 429 (1985) at 5. Section 552.106 ordinarily applies only to persons with a responsibility to prepare information and proposals for a legislative body. Open Records Decision No. 460 (1987). You contend that the draft has not yet been presented at public hearings. On this basis, you assert that the submitted document as prepared by the staff constitutes draft legislation which is excepted from disclosure by section 552.106. Assuming that the staff is authorized by the city to prepare recommendations and proposals concerning proposed legislation, and based

on our review of the document at issue, we conclude that the city may withhold it from public disclosure under section 552.106 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Janet I. Monteros', with a stylized flourish at the end.

Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/gle

Ref.: ID# 111672

Enclosures: Submitted documents

cc: Mr. Pat Johnson
P.O. Box 1
San Antonio, Texas 78291-0001
(w/o enclosures)